

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

(1) UPTON'S NATURALS CO.; and  
(2) THE PLANT BASED FOODS  
ASSOCIATION,

Plaintiff,

vs.

(1) KEVIN STITT, in his official capacity  
as Oklahoma Governor; and  
(2) BLAYNE ARTHUR, in her official  
capacity as Oklahoma Commissioner of  
Agriculture,

Defendant.

Case No. CIV-20-938-F

April 12, 2022 Trial Docket

SCHEDULING ORDER

Date July 30, 2021 Judge Stephen P. Friot Clerk Lori Gray

Appearing for Plaintiff: Amanda Howell, Ariel Flint, Adam Doverspike

Appearing for Defendant: Randall Yates

☐ JURY TRIAL DEMANDED

☒ NON-JURY TRIAL

THE FOLLOWING DEADLINES ARE SET BY THE COURT

1. Motions to join additional parties to be filed by **December 13, 2021**.
2. Motions to amend pleadings to be filed by **December 13, 2021**.
3. Plaintiff to file a final list of expert witness(es) in chief and submit expert reports to defendant by **November 20, 2021**. \* Defendant to file a final list of expert witness(es) in chief and submit expert reports to plaintiff 21 days thereafter. \*
4. Plaintiff to file a final list of witnesses, together with addresses and brief summary of expected testimony where a witness has not already been deposed, by **December 10, 2021**. \* Defendant to file a final list of witnesses (as described above) 14 days thereafter. \*
5. Plaintiff to file a final exhibit list by **December 10, 2021**. \* Defendant to file objections to plaintiff's final exhibit list, under Fed. R. Civ. P. 26(a)(3)(B), 14 days thereafter.

Defendant to file a final exhibit list 14 days after filing of plaintiff's list.\*

Plaintiff to file objections to defendant's final exhibit list, under Fed. R. Civ. P. 26(a)(3)(B), 14 days after filing of defendant's list.

\*The listing of witnesses and exhibits shall separately state those expected to be called or used and those which may be called or used if the need arises. Except for good cause shown, no witness will be permitted to testify and no exhibit will be admitted in any party's case in chief unless such witness or exhibit was included in the party's filed witness or exhibit list.

6. All dispositive and *Daubert* motions to be filed by **January 1, 2022**.

7. Discovery to be completed by **March 15, 2022**.

The deadline for dispositive and *Daubert* motions precedes the discovery deadline. The parties are expected to conduct any discovery necessary for such motions in advance of the motion deadline.

8. Trial docket **April 12, 2022**. \*\*

\*\*Trial dockets generally begin the second Tuesday of each month; however, this practice varies, particularly during holidays. The published trial docket will announce the trial setting.

The interval between the dispositive motion deadline (para. 6) and the trial docket (para. 8) is inflexible. An extension of time to file or respond to a motion for summary judgment, if

granted, will likely affect the trial setting.

9. Designations of deposition testimony to be used at trial: See chambers rules, Part I.

10. Motions in limine (other than *Daubert* motions, which are due when required by par. 6, above) to be filed by **March 22, 2022**.

11. Requested voir dire to be filed by \_\_\_\_\_.

12. Trial briefs to be filed by **March 22, 2022**.

13. Requested jury instructions and proposed verdict forms to be filed on or before \_\_\_\_\_. \*\*\*

14. Proposed findings and conclusions of law to be filed no later than **March 22, 2022**.\*\*\*

\*\*\*In addition to filing, the parties shall submit their proposed jury instructions and verdict forms or findings of fact and conclusions of law in Word format to the Clerk via the Court's designated mailbox: [firot-orders@okwd.uscourts.gov](mailto:firot-orders@okwd.uscourts.gov).

15. Any objection or responses to the trial submissions referenced in paragraphs 10, 11, 12, 13 or 14 to be filed fourteen (14) days thereafter. Absent leave of court, no reply briefs are expected or permitted with respect to motions in limine that are filed less than 30 days before the first day of the trial docket.

16. The Final Pretrial Report, approved by all counsel, and in full compliance with

Local Rules (see Appendix IV), to be filed no later than **March 22, 2022**. A proposed order approving the report shall be submitted to the Clerk via the Court's designated mailbox: **friot-orders@okwd.uscourts.gov**.

17. This case is referred to ADR:

\_\_\_\_ Mediation by agreement of the parties, exempt from LCvR16.3.  
 \_\_\_\_ by Order of the Court:

\_\_\_\_ Court-Ordered Mediation subject to LCvR16.3  
 \_\_\_\_ Judicial Settlement Conference  
 \_\_\_\_ Other \_\_\_\_\_

If the Court orders mediation, the process shall be completed and a report filed with the Court by the parties, stating whether the case settled, not later than \_\_\_\_\_.

(ADR forms are available on the court's website, [www.okwd.uscourts.gov](http://www.okwd.uscourts.gov).)

18. Except as may be otherwise specifically ordered by the assigned judge, this case will not be scheduled for a judicial settlement conference unless, within ten calendar days after the trial docket is published, the parties file a joint motion requesting a judicial settlement conference. The motion shall provide reasons justifying the commitment of court resources to the settlement process, and shall describe the reasons for which efforts to settle the case by other means have been unsuccessful.

19. \_\_\_\_ The parties consent to trial by a Magistrate Judge.

20. Initial disclosures pursuant to Fed. R. Civ. P. 26 have been made \_\_\_\_;  
 are excused \_\_\_\_; or shall be made no later than \_\_\_\_\_.

21.A. Judge Friot answered any questions counsel had with respect to his chambers' procedures, found at <http://www.okwd.uscourts.gov/files/jfriotrules.pdf>.

B. Even though discovery may continue to the date set forth in paragraph 7, above, no motions asserting failure to comply with discovery-related obligations (Rules 26-37 and 45, Fed. R. Civ. P.), filed later than 30 days prior to the first day of the trial docket (the trial docket set forth above or any later trial setting that may be established by orders hereafter entered in this case), will be entertained absent a compelling showing, supported by affidavit, that the matters raised in the motion could not, with reasonable diligence, have been raised by motion at an earlier date. Delays that are commonly encountered during the course of

litigation, such as delays by an opposing party in answering interrogatories or in producing witnesses or documents, will ordinarily not suffice as the basis for the required compelling showing.

C. Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

BY ORDER OF THE COURT  
CARMELITA REEDER SHINN, CLERK

By: \_\_\_\_\_ s/ Lori Gray  
Deputy Clerk

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